



Appeal Decisions

Site visit made on 2 September 2025

by **C Rafferty LLB(Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 24 September 2025

Appeal A Ref: APP/Z4718/C/24/3351169

Appeal B Ref: APP/Z4718/C/24/3351170

Land and Buildings on the south West Side of Caulms Wood Road, Dewsbury

- The appeals are made under section 174 of the Town and Country Planning Act 1990 (as amended).
 - The appeals are made by Mr Mohammed Haamid Amjad (Appeal A) and Mr Mohammed Khuram Amjad (Appeal B) against an enforcement notice issued by Kirklees Metropolitan Council.
 - The notice was issued on 26 July 2024.
 - The breach of planning control as alleged in the notice is without the benefit of planning permission, the material change of use of land to timber merchants including the storage and distribution of timber materials; and operational development consisting of the laying of a hard surface, the erection of boundary fences, an open-air storehouse and retail shop to facilitate the use..
 - The requirements of the notice are to:
 - a) Cease the use of the site as timber merchants including the storage and distribution of timber materials
 - b) Demolish all buildings and structures that facilitate the use
 - c) Remove all materials associating with the use of the site as a timber merchant, including but not limited to, timber and sheet materials, decking, building and roofing materials, staircases, fencing, metal storage racks, plastic sheeting, etc.
 - d) Remove the boundary fencing
 - e) Break up and remove the concrete hard surface and return the land to its condition prior to the development taking place
 - The period for compliance with the requirements is 60 days
 - Appeal A is proceeding on the grounds set out in section 174(2)(a), (f) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
 - Appeal B is proceeding on the grounds set out in section 174(2)(f) of the Town and Country Planning Act 1990 (as amended).
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Decision

1. The appeals are dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Appeal A on ground (a)

2. An appeal on ground (a) is brought on the basis that planning permission ought to be granted for the breach of planning control stated in the notice. Where an appeal on ground (a) is duly made, an application for planning permission is deemed to have been made.

Main Issues

3. The main issues are the effect of the development on: the character and appearance of the area; the living conditions of the occupiers of surrounding properties with regard to noise and disturbance; ecology; and highway safety.

Character and appearance

4. The appeal site comprises an area of land on Caulms Wood Road, currently in use as a timber merchants, with a storehouse and retail shop. The site is hard surfaced and enclosed by boundary fencing and features open air storage of materials linked to the business. Although the site historically housed a metal framed building and the appellant refers to use by a builder's merchant, the evidence suggests that, prior to the current use, the site lay vacant and overgrown for some years
5. While the wider surrounds are mixed in nature, the immediate vicinity of the site has a predominantly residential use. The opposite side of Caulms Wood Road provides access to streets lined with numerous terraced houses, all of which sit close to the site. Within this setting, and even acknowledging the modest scale of the timber merchant business, the commercial use of the site feels decidedly out of place. Its industrial nature is at odds with the residential feel of Caulms Wood Road, failing to complement or integrate with the numerous dwellings nearby.
6. This is further highlighted by the appearance of the development. Although located lower than street level and to the rear of the site, the metal buildings of the storehouse and shop remain visible. Despite their grey colouring, sloping roofs, and overall scale, they are visually jarring next to the stone and red brick terraced properties. The green fencing, in addition to reading as an industrial feature itself, does little to screen the site from the street. It allows for clear views towards the storage racks and materials associated with the timber merchants which, despite their height below the fence, are clearly incompatible with the residential setting.
7. The appellant has suggested alterations to the development as part of this appeal. These include the addition of stone slips to the storage building which sits closest to Caulms Wood Road, and lightweight slate to the rooftops of the buildings. However, the external appearance of the retail shop would remain visible from the street, in addition to the storage racks and fencing which ensure that the industrial character of the site would remain readily experienced. Accordingly the suggested alterations would not fully address the visual harm of the development.
8. For the reasons given, the development has a significant adverse effect on the character and appearance of the area. As such, it fails to comply with Policy LP24 of the Kirklees Local Plan insofar as it seeks to ensure development respects the character of the area.

Living conditions

9. The appellant describes the timber merchants as a small scale business catering to private individuals and sole traders. They refer to weekly delivery vehicles and forklift use and monthly bin collections, with opening hours of 08h00-17h00 Monday – Friday and 08h00 – 14h00 on Saturday. Nevertheless, in a residential setting the nature of the noise associated with the development is out of place.
10. An acoustic survey was provided with the appeal. This finds that the operation at the site is likely to have an adverse impact on neighbouring properties. As such, the main parties agree that, in its current form, the development negatively affects the living conditions of the occupiers of these surrounding properties and, based on my observations, I have no reason to disagree.

11. The acoustic survey suggests mitigation measures to address this. This includes the erection of a 2.2m high barrier masonry or close boarded fence to both the front and rear boundaries of the site. Little information the precise nature of this feature is provided. However, given the reference to a height of 2.2m and the proposed location of the feature, it would read as a dominant addition to the streetscene that is likely to appear out of place in a residential setting and fail to respect or reflect the surrounding character. As such, even if I were to find it adequately addressed the effect of the development on living conditions, this fencing or wall would not be an appropriate mitigation measure due to the other harm caused to visual amenity.
12. For the reasons given, the development has a significant adverse effect on the living conditions of occupiers of surrounding properties with particular regard to noise and disturbance. As such, it fails to comply with Policy LP24 of the Kirklees Local Plan insofar as it seeks to ensure development provides a high standard of amenity for neighbouring occupiers.

Ecology

13. The enforcement notice states that the development has undoubtedly negatively impacted the ecology of the site. The evidence before me suggests that the appeal site was previously overgrown, and submitted photos clearly show it to be covered in planting. This has since been replaced by the hardstanding of the development.
14. The appellant asserts that the site would have provided little opportunity for ecology, referring to rubbish and anecdotal evidence of anti-social behaviour. They further state that alterations would be made to the development to include measures such as planting, in addition to bird and bat boxes.
15. However, given the extent of planting previously present at the site, there is potential for some ecological value to have been provided. I have nothing substantive before me to confirm the appellants' position that such value would have been limited. In addition, in the absence of a detailed ecological assessment, I cannot be certain that the proposed measures would provide adequate mitigation for any potential harm to ecology that may have occurred.
16. For the reasons given, on the evidence before me I cannot be certain that the development has not resulted in harm to ecology. As such, it fails to comply with Policy LP24 of the Kirklees Local Plan insofar as it seeks to ensure development contributes to enhancement of the natural environment.

Highway Safety

17. Caulms Wood Road is a two-way cul-de-sac that primarily serves the residential side streets and properties along the road. It has an upward slope when travelling southeast and, at the time of my visit, was moderately parked with vehicles in the highway, particularly close to the appeal site.
18. The entrance and exit for the site is at the northwest end. At this point the site is shallow, such that vehicles are likely to enter and exit at an angle. I observed this restricts the ability for two way traffic at the entrance/ exit, particularly for larger vehicles. The use of this entrance/ exit therefore has the potential to lead to vehicles waiting in, and obstructing, the highway. In addition, due to the lack of dedicated parking or turning areas at the site, additional vehicular movements in

reverse gear to and from Caulms Wood Road are also likely to be introduced when the site is otherwise well-used.

19. The position of the entrance gate and boundary features, along with the sloped nature of the road and the possibility of parked cars on the highway, limits driver visibility, particularly when exiting onto Caulms Wood Road. Accordingly, the introduction of the moving and waiting vehicles associated with the development increase collision risk both with other vehicles along Caulms Wood Road and passing pedestrians on the adjacent footpath.
20. The appellant has provided plans showing amendments to the development, including dedicated spaces for parking, loading, and refuse, in addition to setting back the entrance gate and boundary features. However, I cannot be certain on the information provided that adequate turning space would remain at the site should all such areas be in use. Multiple manoeuvres to and from the highway, including in reverse gear, may therefore still be required. The shallow depth of the entrance/ exit point would also continue to limit the possibility for two-way traffic, such that vehicles would still be likely to wait on the highway. Finally, even with the improved visibility splays, the potential for car parking adjacent to the entrance/ exit would remain and continue to restrict driver visibility.
21. I note the appellant's commentary on the nature of Caulms Wood Road. However, given my findings above, and in the absence of substantive evidence to the contrary, it remains that numerous additional manoeuvres in both forward and reverse gear to and from the highway would be introduced by the amended scheme. Due to the residential nature of the surrounds, this highway is likely to be well used by both pedestrians and vehicles, the flow of which would undoubtedly be interrupted by these additional movements and, given the potential for visibility to be limited by adjacent parked cars, collision risk would be unduly increased.
22. For the reasons given the proposal would have a significant adverse effect in highway safety. As such, it fails to comply with Policy LP21 of the Kirklees Local Plan insofar as it seeks to ensure a safe and efficient highway network.

Appeal A and B on ground (f)

23. An appeal on ground (f) is brought on the basis that the requirements of the notice exceed what is necessary. Section 173(4) of the 1990 Act sets out the purposes which an enforcement notice may seek to achieve. They are either: (a) remedying the breach of planning control; or (b) remedying any injury to amenity which has been caused by the breach. Section 173(4) is clear that a notice can remedy the breach of planning control by: making the development comply with the terms of any planning permission which has been granted in respect of the land; by discontinuing any use of the land; or by restoring the land to its condition before the breach took place.
24. Given that the requirements of the notice are to restore the land to its previous condition, the purpose of the notice is to remedy the breach of planning control. The appellant argues that the steps required by the notice exceed what is necessary. In this regard they refer to various alterations to the development. I have assessed the planning merits of these above and find that such an altered scheme would still result in planning harm.

25. I observed the site during my visit and noted the presence of the development identified in the enforcement notice. From my observations the only way to remedy the breach would be to remove the development in its entirety and to restore the appeal site to its prior condition, as outlined in the requirements of the notice. Given the purpose of the notice, the requirements are not therefore excessive.
26. The appeal on ground (f) therefore fails.

Overall Conclusion

27. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice with corrections and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act (as amended).

C Rafferty

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/Z4718/C/24/3351169	Mr Mohammed Haamid Amjad
Appeal B	APP/Z4718/C/24/3351170	Mr Mohammed Khuram Amjad